



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,423	11/28/2001	John Whitman	4294.3US (98-1208.3)	2810

24247 7590 07/17/2003

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

EXAMINER

PHAM, THANH V

ART UNIT PAPER NUMBER

2823

DATE MAILED: 07/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/996,423

Applicant(s)

WHITMAN ET AL.

Examiner

Thanh Pham

Art Unit

2823

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6/19/0 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

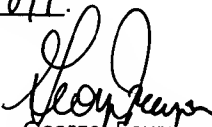
Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 8,9

10. ☐ Other: _____


George Fourson
Primary Examiner
Art Unit: 2823

Continuation of 5. does NOT place the application in condition for allowance because: Applicant argues that the term "gradually" is definite in view of the guidance provided in the instant specification. However, the specification does not provide any examples of particular values of change in rotational speed intended to be encompassed by the term and therefore does not establish the range intended to be recited. This is particularly important in the instant case because patentability is argued to be based on the disclosed change in rotational speed being outside the scope of the recited change in rotational speed. Applicant argues that one of ordinary skill in the art would readily recognize that the change of rotational speed disclosed by Yoshihara is not encompassed by "gradual". However, this would depend on the frame of reference being applied.

Applicant's argument regarding Rodrigues disclosure of spinning a material at a first speed followed by decreasing the speed of spinning have been addressed in the office action mailed 4/15/03. To reiterate, at any point in the process of applying the photoresist and decreasing the speed an amount of photoresist has been applied and is being spun at a first speed and is filling recesses as recited.

Applicant's remaining arguments are based on applicant's intended scope of "gradually" and the argument that Rodrigues does not disclose spinning a material at a first speed followed by decreasing the speed of spinning .